

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

KENNTHE DYSON aka KEN DYSON,

Plaintiff,

-against-

THE STATE OF NEW YORK,

Defendant.

17-CV-7513 (CM)

ORDER DENYING REQUEST FOR  
PRO BONO COUNSEL

COLLEEN McMAHON, United States District Judge:

Plaintiff Kennthe Dyson, proceeding *pro se* and *in forma pauperis*, is currently incarcerated at Great Meadow Correctional Facility. By order dated November 28, 2017, the Court directed Plaintiff to file an amended complaint. Plaintiff has filed an Application for the Court to Request Counsel. (ECF No. 14.)

The factors to be considered in ruling on an indigent litigant's request for counsel include the merits of the case, Plaintiff's efforts to obtain a lawyer, and Plaintiff's ability to gather the facts and present the case if unassisted by counsel. *See Cooper v. A. Sargenti Co.*, 877 F.2d 170, 172 (2d Cir. 1989); *Hodge v. Police Officers*, 802 F.2d 58, 60-62 (2d Cir. 1986). Of these, the merits are "[t]he factor which command[s] the most attention." *Cooper*, 877 F.2d at 172.

Because it is too early in the proceedings for the Court to assess the merits of the action, Plaintiff's motion for counsel is denied without prejudice to renewal at a later date. The Court's November 28, 2017 order directing Plaintiff to amend his complaint within sixty days remains in effect.

**CONCLUSION**

The Clerk of Court is directed to mail a copy of this order to Plaintiff, noting service on the docket. The Application for the Court to Request Counsel is denied without prejudice.

Plaintiff is directed to file a *pro se* amended complaint that complies with the November 28, 2017 order. If Plaintiff fails to comply within the time allowed and cannot show good cause to excuse such failure, the complaint will be dismissed for failure to state a claim upon which relief may be granted.

The Court certifies under 28 U.S.C. § 1915(a)(3) that any appeal from this order would not be taken in good faith and therefore IFP status is denied for the purpose of an appeal. *See Coppedge v. United States*, 369 U.S. 438, 444-45 (1962).

SO ORDERED.

Dated: December 1, 2017  
New York, New York

A handwritten signature in black ink, appearing to read "Colleen McMahon", written over a horizontal line.

COLLEEN McMAHON  
Chief United States District Judge